

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

KEVIN CLARKE, TREVOR BOECKMANN,
HARRY CRANE, CORWIN SMIDT,
PREDICT IT, INC., ARISTOTLE
INTERNATIONAL, INC., MICHAEL
BEELER, MARK BORGHI, RICHARD
HANANIA, JAMES D. MILLER, JOSIAH
NEELEY, GRANT SCHNEIDER, and WES
SHEPHERD,

Plaintiffs,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Case No. 1:22-cv-00909

The Honorable David Alan Ezra

PLAINTIFFS' NOTICE OF INTENT TO FILE MOTION TO STAY VENUE
TRANSFER PENDING APPEAL

Plaintiffs file this notice respectfully to advise the Court that they intend to file a motion to stay the Court's January 16 Order Granting Motion to Transfer Venue (Dkt. 61) no later than the next business day, Monday, January 22, 2024. Plaintiffs will petition the U.S. Court of Appeals for the Fifth Circuit for mandamus review of the transfer decision because "mandamus is the prescribed vehicle for reviewing rulings on transfers of cases pursuant to 28 U.S.C. § 1404(a)." *Def. Distributed v. Bruck*, 30 F.4th 414, 423 (5th Cir. 2022). The Fifth Circuit has regularly used mandamus to reverse transfer decisions. *Id.* (collecting cases). The Fifth Circuit should be entitled to hear that petition without the administrative difficulties of the case already having been transferred. This is particularly

so in light of the fact that the Circuit Court is the court in this jurisdiction with the most substantive investment in this case. Plaintiffs' forthcoming motion will ask the Court to stay its transfer order during the pendency of the mandamus petition.

Plaintiffs respectfully submit that the Court and the Clerk of the Court should not take further administrative actions to transfer the case until the motion for stay has been filed and ruled upon.

Respectfully submitted,

/s/ Michael J. Edney

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2024, a copy of the foregoing was filed electronically and was served on counsel of record through the Court's electronic case filing/case management (ECF/CM) system.

/s/ Michael J. Edney
Michael J. Edney